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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Number Portability Query Services)	CC Docket No. 98-14
)	
Ameritech Tariff F.C.C. No. 2)	CCB/CPD 97-46
Transmittal Nos. 1123, 1130)	
)	
Bell Atlantic Tariff F.C.C. No. 1,)	CCB/CPD 97-52
Transmittal No. 1009;)	
)	
Southwestern Bell Tariff F.C.C. No. 73)	CCB/CPD 97-64
Transmittal No. 2680)	
)	
Pacific Bell Tariff F.C.C. No. 128,)	CCB/CPD 97-65
Transmittal No. 1962)	

OPPOSITION TO DIRECT CASES

Pursuant to the Commission's June 17, 1998 Order Designating Issues for Investigation ("Designation Order"), Sprint Spectrum, L.P., d/b/a Sprint PCS opposes the direct cases filed by Ameritech, Bell Atlantic and SBC¹ concerning the lawfulness of their long-term number portability ("LNP") query service filings. For the reasons discussed below, Sprint PCS respectfully requests that the Commission find that these carriers have failed to justify their rates and, therefore, should reject the tariffs as filed. Until the carriers provide adequate data to support their prices, they should not be permitted to charge other carriers for LNP query services.

Introduction:

Sprint PCS reiterates its opinion that charges for query services should not be borne by CMRS carriers until these carriers are required to fully implement LNP.² The suggestion that

¹ SBC filed consolidated responses for Southwestern Bell Telephone Company and Pacific Bell.

² Commission has set June 30, 1999 as the date on which CMRS carriers must be LNP capable.

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wireless carriers should incur any cost associated with wireline LNP before wireless customers are able to derive a direct benefit from LNP is unfair and places an unlawful and discriminatory burden upon wireless carriers. The Commission identified LNP costs as those “costs of enabling telecommunications users to keep their telephone numbers without degradation of service when they switch carriers.”³ CMRS customers will not be able to switch carriers and keep their number until June 30, 1999 at the earliest. Therefore, cost recovery should be limited to wireline carriers and their customers until wireless carriers are able to fully participate and enjoy the competitive advantages of LNP.

The timing of Sprint PCS’ participation in LNP notwithstanding, the Commission should require additional information from the carriers subject to its investigation to enable a thorough inquiry into the lawfulness of the proposed tariffs. In its preliminary statement, SBC suggests that they Commission’s review of the rates for query services is of a limited scope.⁴ However, as the Commission explained in its Third Report and Order, the statute anticipates and requires greater oversight by the Commission in establishing and maintaining competitively neutral cost distribution and recovery for LNP.⁵ Recognizing the potential for anti-competitive behavior through cost recovery, the Commission found that applying the statute’s requirements that costs “be borne . . . on a competitively neutral basis” to both distribution and recovery, “best achieves the congressional goals of ensuring that the cost of providing number portability do not restrict the local competition that number portability is intended to encourage.”⁶ As such, the Commission is authorized to establish the parameters for cost recovery and conduct inquiries into

³ *In re Telephone Number Portability*, Third Report and Order & Further Notice of Proposed Rulemaking, 98-14 (1998) ¶36 (*Third Report and Order*) (emphasis added).

⁴ SBC Response at 3.

⁵ *Third Report and Order*, at 39.

the justifications submitted by the carriers for their query service charges. Sprint PCS encourages the Commission to utilize its authority to the fullest extent.

Throughout their Direct Cases, the carriers engaged in another round of narrative explanations based on a variety of economic and financial principles and theories, but each failed to offer actual data, calculations or models to backup their assertions. Ameritech's direct case does little more than refer to its previously filed Description and Justification, which the Commission has already found to be inadequate in the Designation Order.⁷ Sprint PCS suggests that without the actual data, including numbers, variables, and detailed assumptions used by these carriers in establishing their query service rates, the Commission cannot engage in a meaningful or productive analysis of the proposed tariffs.

- 1) Carriers should not include general overhead loading factors in their calculations of charges.

In the Third Report and Order, the Commission specifically forbid the inclusion of general overhead loading factors in calculating a carriers recoverable specific costs "[b]ecause carrier-specific costs directly related to providing number portability only include costs carriers incur specifically in the provision of number portability."⁸ The Commission recognized that the overlap between number portability provisioning and other services for which carriers had already recovered general overhead might lead to double recovery if LNP recovery were also allowed to include general overhead loading factors. Therefore, the Commission permitted overhead to be included only to the extent that the carriers could show the incremental cost

⁶ *Id.*

⁷ Direct Case of Ameritech at 1-2.

⁸ *Id.* at 74.

incurred specifically in the provisioning of LNP.⁹ None of the carriers in this proceeding offered or intimated a willingness to eliminate the general overhead load factors from their rate calculations.¹⁰

The Commission's prohibition of general overhead costs is consistent with the structure of number portability cost recovery in that it permits carriers to recover only specific costs directly related to LNP. As noted by the Commission on prior occasions, overhead costs are costs that are not attributable to a specific service.¹¹ The Commission further explained that "general overhead would include a central office, while a specific overhead would include only a portion of a central office required to house and used to provide, e.g. 800 database services."¹²

SBC claims to have included only those expenses related to switching service in developing its overhead loading factors.¹³ SBC makes a similar argument on behalf of Pac Bell, as does Ameritech. Ameritech insists on pricing query services as access despite the Commission's characterization of the charges as end-user.¹⁴ None of the carriers offer any back-up data to support their positions. Until actual data is forthcoming, their claims cannot be evaluated.

2) The carriers have failed to prove that their proposed query service charges are based on costs directly related to providing LNP query services.

The Designation Order designates the issue of whether the carriers' proposed query services charges were based on costs directly related to providing LNP query services for

⁹ *Id.*

¹⁰ Ameritech at 4-8; Bell Atlantic at 3; SBC at 4-9.

¹¹ *In re 800 Database Access Tariffs*, Report and Order, 11 FCC Rcd. 15227, fn. 103 (1996).

¹² *Id.*

¹³ SBC at 7.

¹⁴ *Third Report and Order* at ¶135

investigation.¹⁵ Specifically, the Commission questioned the allocation of OSS and SS7 costs between LNP and other services supported by these systems. Bell Atlantic and Ameritech again offer narrative explanations without supporting data. Bell Atlantic states that they utilized a model to develop the average unit per busy hour octet investment for each service that used the pre-existing SS7 network, but does not provide the model.¹⁶ The Commission has already specifically rejected the requests of many carriers that the entire cost of an upgrade to a network element be classified as a specific cost directly related to LNP.¹⁷ In order to verify that the entire upgrade is not being passed through as an element of cost recovery, the carriers must show their calculations. Without access to the raw data used to compute the fractional increase in SS7 utilization caused by LNP query services, the propriety of its inclusion as a cost directly related to providing LNP query services cannot be accurately assessed.

Sprint PCS appreciates the fact that the back-office systems operate differently among all carriers. However, the Commission should be able to develop standards for the measurement of these system costs as guidelines from which to compare the carriers' proposed costs.

3) Reasonableness of the allocations proposed by the carriers of their total LNP to query service costs.

The Commission designated the reasonableness of the allocations proposed by the carriers between their total LNP and their query service costs as an issue for investigation. The explanation advanced by SBC is based on a methodology supported only by the supposition of the carrier.¹⁸ SBC suggests that unless they are permitted to use their 15% figure of projected costs "N-1 carriers who chose not to deploy their own N-1 capacities would be able to in

¹⁵ Designation Order at ¶7

¹⁶ Bell Atlantic at 3.

¹⁷ Third Report and Order at 73.

appropriately avoid their share of number portability costs.”¹⁹ Sprint PCS notes that it is not required to become N-1 capable until June, 1999 at the earliest, thereby eliminating the “choice” element of SBC’s argument. Neither Sprint PCS nor other CMRS carriers should be required to contribute to any LNP costs until such time as they are N-1 capable, particularly those that are not supported by specific costs broken down into detailed calculations using numbers and variables.

- 4) The methodologies and assumptions used by the carriers to develop their proposed rates are unsubstantiated and, therefore, unreasonable.

Sprint PCS is willing to accept the explanation set forth by Bell Atlantic concerning the differences in costs between tandem and end office query services in theory.²⁰ However, the explanation falls short for lack of supporting data. The substantial difference in cost between end office and tandem queries (5 times) warrants further investigation.

SBC suggests that because it is not guaranteed default routed traffic from an N-1 carrier after that carrier sends default traffic to it once, SBC must treat each default query as a unique event in the billing system necessitating higher costs.²¹ This argument is flawed. There is nothing more unique about a default routed call in a billing system than a regular call. No additional costs will be incurred simply because a call is default routed rather than pre-arranged.

SBC similarly gives no explanation as to why its service center personnel must investigate default query usage in a given period, and why that should be a recoverable expense.²² Processing an order to set up the default query billing account should be automated

¹⁸ SBC at 9-12.

¹⁹ *Id.* at 10.

²⁰ Bell Atlantic at 4-5.

²¹ SBC at 12.

²² *Id.* at 12-13.

and, therefore, a fractional portion of the incremental billing costs. Again, without the benefit of the calculations used to justify these figures, the validity of the proposed charges cannot be determined.

The disparity among the charges proposed by these four carriers and the variety of methodologies used to arrive at these figures is an indication of the need for the Commission's oversight and detailed investigation of LNP cost recovery.

5) The carriers' demand forecasts are unsubstantiated and, therefore, not reasonable.

The differing responses among the carriers to the issue of demand forecast calculations, is indicative of the fundamental uncertainty that accompanies query demand forecasting.²³ At the same time, the accuracy of this component is critical to ensuring the integrity of the query charge. Despite the various methodologies used, these forecasts are little more than "best guesses" of the impact that LNP will have on local competition and customer acceptance. So far, few predictions concerning the impacts of LNP have held true.

In fact, the most accurate reflections of demand for LNP traffic is available from the incumbent LEC's switches. Their switches record every CDR passed through from another carrier and bill according to this information. Therefore, they are in possession of actual traffic counts that are better predictors of future traffic than the forecasts that Sprint PCS could generate. For Sprint PCS to provide a good forecast of its traffic to a particular carrier, it would need to know (1) the traffic to each tandem and end office; (2) the NXX's of each call; and (3) whether or not the NXX is portable. Information is available to satisfy the first two components.

²³ Ameritech estimates that 15% of its queries will be for carriers other than itself, but claims that the inaccuracies in its forecasts were caused by a failure of N-1 carriers to respond to Ameritech's request for forecasts (at 10-11); Bell Atlantic refers to its Description and Justification that estimates that 99% of Bell Atlantic's queries will come from Bell Atlantic (at 5-6); SBC distinguishes between pre-arranged and default queries among 3 categories of providers

However, without visibility into the local SMS, Sprint PCS does not have access to the information necessary to tell whether or not a particular NXX is portable. The LEC has access to this information and is, therefore, better positioned to estimate traffic volumes.

To address the impact of forecasts upon the ultimate query service charge, Sprint PCS recommends that the Commission approve tariffs for LNP query rates annually with “true-ups” each year to reflect over- and short-charging from the previous period. Once actual demand data is generated, this component of the equation can be more accurately assessed.

6) Blocking of LNP traffic should be subject to the same standards in place today.

The Commission designated as an issue whether or not Ameritech should be allowed to block prearranged and default routed traffic.²⁴ Sprint PCS agrees that preserving the integrity of the network is paramount. However, it is unclear why the LEC requires a specific rule with respect to blocking LNP traffic. Current protocols permit the blocking of traffic when the network is jeopardized and the offending carrier refuses to take steps to remedy the problem. Carving out a particular set of rules for blocking LNP traffic would give the LEC the ability to arbitrarily declare that there is a problem in the network that is not readily apparent to others. Furthermore, it is unclear how Ameritech would distinguish between an LNP call and a regular call on SS7 so as to ascertain that LNP traffic is the cause of a problem. Sprint PCS requests that the Commission deny Ameritech’s request for a specific LNP blocking rule.

7) Ameritech’s required information requests for prearranged query services are unnecessary and unreasonable.

and estimates that between 50 and 60% of pre-arranged queries will be performed for carriers other than SBC and between 15 and 50% of default queries will be performed for carriers other than SBC (at appendix B).

²⁴ Designation Order at ¶12.

The Commission designated for investigation the issue of Ameritech's request for detailed forecasts of unqueried traffic "by end offices and tandem offices, including total monthly traffic, maximum busy hour volumes, and the Ameritech switch over which they intend to route this traffic."²⁵ Ameritech's assumption that these forecasts will somehow enable them to prepare their network to handle the expected volume of traffic is misplaced. Future estimates of LNP traffic, regardless of their origin, are completely unpredictable without historical data to back them up. The LEC's assertion that it must know which office will receive unqueried traffic in order to predict whether or not an overload to one mated-pair of LNP databases is also flawed. Ameritech knows which switches are LNP capable and whether or not they contain ported numbers. If an NXX is LNP capable, it is recognized in the LNP database and if any number has been ported in the NPA-NAA, that information is available in the local SMS. Therefore, forecasts are unnecessary for the purposes claimed by Ameritech. If carriers were capable of providing accurate forecasts of the nature Ameritech seeks, they would serve no other purpose than to validate information already contained in Ameritech's switches.

- 8) It is not reasonable for carriers to impose query charges on calls to number portable NXXs if no number has been ported from that NXX.

Bell Atlantic and SBC have indicated their intent to assess a default query charge on unqueried calls delivered to an NXX designated as number portable, but before a number has actually been ported.²⁶ That practice is unreasonable, not competitively neutral, and has substantial adverse impacts in terms of costs to carriers relying on default routing. In essence, a carrier, or end-user, is being charged for a service that is available, but which no one is using.

²⁵ *Id.* at ¶13.

Until some actual benefit is derived from the LNP capabilities, carriers should not be allowed to begin recovering their costs.

The fact that SBC presupposed the Commission's acceptance of its billing method and are now faced with having to remove routing translations loaded into their switches is unfortunate. It does not, however, justify the endorsement of an unnecessary, yet substantial, charge that has an anti-competitive result.

The LECs advocate the efficiency of changing routing tables and translations simultaneously. They complain that the 5 day window for translations is too short.²⁷ This interval was negotiated by the wireline carriers at industry LNP standards meetings under the auspices of the National Association of Numbering Council's (NANC) LNP Administration Working Group, Technical and Operations Task Force in order to give time for translations to be input once an order to port was received. Not only should the LECs abide by the NANC standards, they should not be charging for queries until a number is ported out of the NXX.

- 9) It would be unreasonable to require incumbent LECs to recover all of their query service costs associated with all NXXs only in NXXs from which a number has ported.

The Commission's question concerning the propriety of burdening only those NXXs from which a number has ported with the query service costs of all NXXs is confusing.²⁸ If the Commission is suggesting that the costs of all queries to all NXXs that are LNP capable be borne only by those where actual porting occurs, Sprint PCS would object to such an arrangement. The LECs should allocate their costs among the various switches that are LNP capable and begin recovering the costs as numbers are ported out of the NXXs in the individual switch. If the

²⁶ Bell Atlantic at 7; SBC at 20.

²⁷ SBC at 22.

Commission is committed to LNP implementation of the scope it has already defined and upon which carriers have relied,²⁹ it should not create a recovery system that would distribute the entire cost of query services among less than all LNP capable switches.

Conclusion:

For the foregoing reasons, the Commission should reject the LNP query service tariffs of Ameritech, Bell Atlantic and SBC under investigation in this proceeding.

Respectfully submitted,

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²⁸ Designation Order at ¶14.

²⁹ *Third Report and Order* at ¶142 (the Commission has mandated for number portability to be available in the largest 100 MSAs, which is estimated to include 61.1% of the United States population).


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